



International Convention on
the Elimination
of all Forms of
Racial Discrimination

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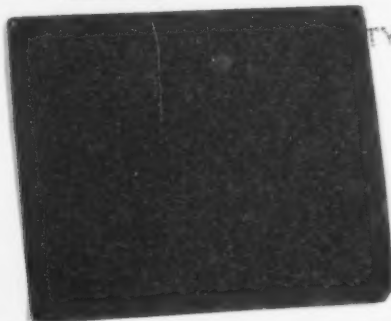
COMMITTEE ON THE ELIMINATION
OF RACIAL DISCRIMINATION

REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 9
OF THE CONVENTION

Fourteenth periodic report of States parties due in 1996

Addendum

Ukraine*



[5 March 1997]

* This document contains the fourteenth and fifteenth periodic reports (consolidated in one document) due on 6 April 1994 and 1996 respectively. For the twelfth periodic report of Ukraine and the summary records at which the Committee considered that report, see documents CERD/C.226/Add.3 and CERD/C/SR.958, 959 and 983.

The information submitted by Ukraine in accordance with the consolidated guidelines for the initial part of the reports of States parties is contained in the basic document HRI/CORE/I/Add.63.

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PART I - GENERAL

1. This report supplements previous reports submitted by Ukraine in compliance with article 9 of the Convention (the last report was submitted to the secretariat in July 1992). The report was prepared by the Ukrainian Ministry of Justice, the Ukrainian State Committee on Nationalities and Migration, the Ukrainian State Committee on Religion, the Ukrainian Ministry of Foreign Affairs and the Ukrainian Ministry of Internal Affairs.
2. On achieving independence, Ukraine faced the problem of selecting a model for its ethno-political development. It is worth mentioning that one of the priorities in its elaboration of inter-ethnic relations policy was the desire to protect the rights of national minorities. In view of the multi-ethnic composition of its population (over one quarter of its citizens are not ethnic Ukrainians), Ukraine embarked upon the creation of a multicultural society based on its long-standing tradition of the constructive coexistence and mutually enriching interaction of the various ethnic, religious and linguistic groups living in its territory.
3. For this reason, legislation regulating inter-ethnic relations was drafted on the basis of the principle of the equality of rights and freedoms of citizens, regardless of their national (ethnic) origin, race and beliefs, and the need to create equal opportunities enabling them to participate in the economic, social, political and cultural life of society.
4. Ukraine became a member of the Council of Europe on 9 November 1995 and assumed various commitments in respect of this organization. One of these commitments that has been fulfilled by Ukraine was the adoption of a new Constitution based on democratic principles and reflecting that of the rule of law.
5. On 28 June 1996, Ukraine's Parliament, namely, the Supreme Council, adopted the Constitution - the fundamental law of Ukraine. Ukraine acquired yet another attribute of statehood by embodying the principle that human rights and freedoms and their guarantees determine the essence and orientation of the activity of the State in the Constitution (art. 3, second paragraph).
6. The Constitution proclaimed Ukraine to be a sovereign and independent, democratic, social, law-based State (art. 1). The Constitution is protected by law and Ukraine's laws are conditioned by its Constitution. The Constitution states that international agreements which have been ratified by Ukraine's Supreme Council are part of national legislation.
7. Article 24 of the Constitution states that all citizens have equal constitutional rights and freedoms and prohibits discrimination based on race, colour of skin, political, religious and other beliefs, ethnic and social origin, property status, linguistic or other characteristics. Article 26 guarantees foreigners and stateless persons who are in Ukraine on legal grounds the same rights and freedoms as citizens of Ukraine, with the exceptions established by the Constitution, laws or international treaties of Ukraine.

8. It should be emphasized that the European Commission's draft conclusions on Ukraine's Constitution, "Democracy through law", of 17 January 1997, state that the list of rights protected and guaranteed by Ukraine's Constitution is sufficiently comprehensive to demonstrate the desire to protect the entire series of rights guaranteed by the European Convention for the Protection of Human Rights and Fundamental Freedoms and is convincing proof of the possibility that these rights can be realized in practice.

9. It may be added that, on 9 November 1995, Ukraine signed Protocols 2 and 11, and, on 19 December 1996, Protocols 1, 4 and 7 to this Convention.

10. On 15 September 1995, it signed the European Framework Convention for the Protection of National Minorities and all the documents required in connection with the ratification of the Convention have now been prepared and submitted to Ukraine's Supreme Council.

11. On 27 January 1997, the various documents required in connection with the ratification of the European Charter for Regional or Minority Languages, signed by Ukraine on 2 May 1996, were submitted to Ukraine's Supreme Council.

12. The following international agreements are in effect in Ukraine: the International Convention on the Elimination of All Forms of Racial Discrimination, ILO Convention No. 111 concerning Discrimination in Respect of Employment and Occupation, the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights and the Vienna Convention on the Law of Treaties.

13. Ukraine has drawn up a State Convention for the Protection of Human Rights which will be submitted to Ukraine's Cabinet of Ministers in March this year. A convention on Ukrainian State policy on the rights of indigenous peoples has been prepared and submitted to a large number of international human rights organizations for international legal appraisal.

14. Legislative action is being taken to bring national legislation into line with European norms and standards and universal international legal principles. Legislation on the legal status of foreigners and stateless persons and on procedures for granting foreigners and stateless persons asylum in Ukraine are being drafted.

PART II - INFORMATION RELATING TO ARTICLES 2 TO 7 OF THE CONVENTION

Article 2

15. In its efforts to overcome the nefarious consequences of the USSR's policy of virtually depriving nationalities of their individuality, Ukraine is adopting legislation as well as other measures to preserve the national cultural identity of its ethnic groups. The fact that Ukraine is one of the few States among those that emerged on the territory of the former USSR which has so far not been the scene of inter-ethnic conflicts is to a great extent explained by its considered and tolerant State ethnic policy.

16. In the course of a relatively short period, a political and legal basis for the regulation of ethnic and national processes that takes into account

and ensures the harmonious development and optimum balance of the interests of various ethnic groups was created and is still being improved. A Declaration of the Rights of National Minorities in Ukraine was adopted, as well as a series of laws, namely, the Act on Ukrainian Citizenship, the Act on National Minorities in Ukraine, the Act on Minority Languages in Ukraine, the Education Act, the Act on Freedom of Conscience and Religious Organizations, and the Basic Principles of Ukrainian Legislation on Culture, which guarantee to Ukrainian citizens equal political, economic, social and cultural rights, the right to develop the languages and cultures of all ethnic groups, and respect and support for their cultural identity.

17. At the present time, preparations are being made for the ratification of the European Framework Convention for the Protection of National Minorities as well as the European Charter on Regional and Minority Languages, which will constitute a further step towards ensuring tolerant coexistence and mutual respect for various ethnic groups.

18. The State is promoting the return and rehabilitation of persons deported under the totalitarian regime on grounds of national origin. Since achieving independence, Ukraine has consistently earmarked considerable resources from its budget for the rehabilitation of deportees and for the solution of cultural and educational problems. The Government has approved a special programme of priority measures for the resettlement and rehabilitation of over 250,000 Crimean Tatars as well as persons of other nationalities who have returned to the Crimea in recent years. Ukraine's efforts in this respect are being supported by the international community. Special measures are being taken under the United Nations Development Programme to assist persons deported to the Autonomous Republic of Crimea. These programmes are elaborated by the Office of the United Nations High Commissioner for Refugees and the International Organization for Migration.

19. The new relationship established between the State and the Church is embodied in Ukraine's Constitution. It contains a number of provisions which were previously lacking in national legislation. For example, the preamble to the Constitution refers not only to responsibility before one's own conscience, past, present and future generations, but also before God, and article 35 guarantees citizens the freedom to profess or not to profess any religion, to perform alone or collectively and without constraint religious rites and ceremonial rituals, and to conduct religious activity. Moreover, under article 11, the State is required to promote the religious identity of all indigenous peoples and national minorities of Ukraine.

20. A draft outline of State ecclesiastical policy has been drawn up which, in accordance with the Constitution and the norms of international law, defines the strategy of State-Church relationships, the main priorities of State policy in respect of religion and the Church, as well as ways and means of realizing them. The salient features of this strategy are as follows: the establishment of effective machinery to implement constitutional guarantees of freedom of beliefs and religion; the elaboration of a legislative basis for the establishment of harmonious State-Church relationships, fully guaranteeing the legal and social status of the Church in society; support for the activities of religious organizations in the performance of their statutory functions; the depoliticization of religious activities and the elimination of

the possible wrenching impact of interdenominational conflicts on society; support for the development of the religious individuality of indigenous peoples and national minorities in Ukraine; and prevention of religious intolerance or discrimination on religious grounds.

21. The creation in Ukraine of a constitutional and legal basis guaranteeing freedom of beliefs and religion has helped to overcome the adverse impact of the past on religious and Church matters, stimulated religious and spiritual life in Ukraine and, in the final analysis, promoted interdenominational harmony and understanding. In the four years that have elapsed since Ukraine achieved its independence, the total number of religious bodies has increased by one third and comprises 17,600 communities and 65 denominations, trends and tendencies. The number of ecclesiastical educational establishments and monasteries has increased more than threefold, missions and brotherhoods fivefold, and publications sixfold. Almost all traditional denominations in Ukraine have their own educational establishments which are staffed by about 15,000 persons.

22. The material basis of the Church has improved considerably. The State has returned 3,000 places of worship and over 8,000 items of Church property. Over 1,000 temples have been constructed and about 2,000 places of worship are being built.

23. The State is helping to develop the religious individuality of national minorities by promoting their religious infrastructure, creating favourable conditions for their activities and expanding links with churches abroad. Last year Ukraine was visited by over 3,000 members of the faithful from 15 different countries while over 1,000 Ukrainian faithful went on visits abroad.

24. No discrimination on religious grounds is apparent in connection with the revitalization of the State's religious and spiritual activities. Interdenominational conflicts, however, are a source of concern although they are showing signs of diminishing. On the one hand, they reflect attempts by various denominations (Orthodox and Catholic) to expand their spheres of influence and disputes concerning leadership and the use of local temples and, on the other, they are the result of interference by certain local authorities in religious and church matters and attempts by various political forces to consolidate their position by supporting this or that church and its congregation.

25. Generally speaking, interdenominational conflicts are becoming less acute as a result of the depoliticization of the underlying problems. Yet this does not exclude the possibility of further religious flare-ups owing to the persistence of the factors mentioned above. However, the State, which does not interfere in canon and ecclesiastical law, has adequate constitutional and legal means at its disposal to neutralize or prevent such conflicts.

26. A number of recent initiatives were aimed at consolidating the harmonious atmosphere prevailing in the religious sphere. Specifically, the President of Ukraine, L.D. Kuchma, held a meeting with religious personalities of Ukraine at which ways of creating favourable conditions for religious

activities were decided upon. Moreover, the All-Ukrainian Union of Churches was established, its basic function being to consolidate interdenominational peace and harmony and to coordinate the social activities of religious organizations.

Article 3

27. Draft provisions amending and supplementing existing laws have been drawn up in order to bring national legislation into line with international agreements on the protection of the rights of national minorities signed by Ukraine and also to improve legal machinery for preventing the emergence of adverse tendencies in inter-ethnic relations. For this purpose, the proposals made by public associations and ethnic minorities were taken into account, particularly in the drafting of proposals to amend and supplement the Act on National Minorities in Ukraine. This was done, for example, in respect of article 18, prohibiting and providing for punishment under the Act for any restriction of the rights and freedoms of citizens on national or racial grounds. In the new draft of this article, prohibition and punishment is extended to "acts intended to incite inter-ethnic, racial and religious hostility". These draft provisions are being considered by the Government of Ukraine.

28. Steps are being taken to improve existing machinery for preventing the emergence of adverse tendencies in inter-ethnic relations. A special interdepartmental commission, with statutory powers to evaluate publications appearing in Ukraine from a legal and technical standpoint and responsible for monitoring and taking action to prevent the emergence of any adverse social trends reflecting racism, chauvinism or religious intolerance, was created in June 1996.

29. Under the Constitution of Ukraine, no ideology may be recognized by the State as mandatory. Moreover, the State guarantees freedom of political activity not prohibited by the Constitution and the laws of Ukraine (art. 15, second and fourth paragraphs). Political parties and public associations whose programme goals or actions are aimed at the incitement of inter-ethnic, racial or religious enmity are prohibited (art. 37).

30. The first paragraph of article 144 of the Constitution states that bodies of local self-government adopt decisions only within the limits of authority determined by law. Such bodies may not encourage or incite racial discrimination.

31. As was indicated in the twelfth periodic report, the new version of article 66 of the Ukrainian Criminal Code which states "Disregard of the equality of citizens' rights on the grounds of their race, nationality or attitude to religion" has been in force since 12 September 1991.

Articles 4, 5 and 6

32. According to article 21 of the Constitution, all people are free and equal in their dignity and rights. Human rights and freedoms are inalienable and inviolable. Moreover, article 27 states that every person has the inalienable right to life. No one shall be arbitrarily deprived of life. The

duty of the State is to protect human life. In addition, under article 28, everyone has the right to respect of his or her dignity. No one shall be subjected to torture, cruel, inhuman or degrading treatment or punishment that violates his or her dignity. On 24 January 1997, Ukraine ratified the European Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

33. The political rights of national minorities are guaranteed by articles 9 and 14 of the Act on National Minorities in Ukraine. According to article 9 of this Act, persons belonging to national minorities have the right to be elected or appointed on an equal footing to any position in legislative, executive, judiciary, local or regional self-government bodies, the army, enterprises, institutions and organizations. Public associations of ethnic minorities have the right under article 14 to present candidates in elections to central and local government bodies.

34. At the present time, representatives of 12 nationalities are deputies in Ukraine's Parliament. The State Committee on Nationalities and Migration - the central State executive body responsible for inter-ethnic relations - has its own advisory organ, namely, the Council of Representatives of Public Associations of National Minorities of the Ukraine. Similar advisory bodies are attached to local authorities in areas where there are national minorities.

35. These provisions of Ukrainian legislation offer national minorities the possibility of actively influencing the formulation and implementation of State policy in matters involving their interests. The Constitution guarantees to everyone who is legally present on the territory of Ukraine freedom of movement, free choice of place of residence, and the right to freely leave the territory of Ukraine, with the exception of restrictions established by law (first para. of art. 33).

36. In 1992 and 1993, moreover, a number of regulations were adopted with a view to liberalizing the procedure governing entry into and departure from the country; this process culminated in January 1994 with the adoption of the Act on procedure governing departure from Ukraine and entry into Ukraine for Ukrainian citizens. This Act governs the implementation of the rights guaranteed by the Constitution, and specifically those in article 33.

37. The situation as regards temporary business or pleasure trips abroad by Ukrainian citizens is as follows: in 1992, over 1,895,000 persons received authorization to make single trips; in 1993, 1,273,000 persons were granted passports enabling them to make multiple trips abroad; the corresponding figures for 1994 and 1995 were 1,328,000 and 756,000. The number of Ukrainian citizens leaving to take up permanent residence abroad in 1992 was 35,100; the corresponding figures for 1993, 1994 and 1995 were 36,800, 44,800 and 37,900.

38. In 1995, the applications of 1,050 persons (0.14 per cent of the total) for passports authorizing them to stay temporarily abroad were rejected for duly established legal reasons, and the applications of only 29 persons (0.076 per cent of the total) for passports authorizing them to take up permanent residence abroad were rejected.

39. The number of foreigners entering Ukraine for short business stays was as follows: 114,700 in 1992, 50,500 in 1993, 264,500 in 1994 and 92,600 in 1995.

40. Continuing efforts are being made to improve Ukraine's visa policy and to simplify formalities governing departure from and entry into the country.

41. The right to Ukrainian citizenship is embodied in the Constitution. Specifically, the second paragraph of article 25 states that a citizen of Ukraine cannot be expelled from Ukraine or surrendered to another State. Nor may a citizen of Ukraine be deprived of citizenship and of the right to change citizenship (first para. of art. 25).

42. Article 51 of the Constitution states that each of the spouses has equal rights and duties in the marriage and family, and that marriage is based on the free consent of a woman and a man.

43. Moreover, under article 41, everyone has the right to own, use and dispose of his or her property, and the results of his or her intellectual and creative activity.

44. Article 34 guarantees everyone the right to freedom of thought and speech, and the free expression of his or her views and beliefs.

45. According to article 35, everyone has the right to freedom of personal philosophy and religion. The exercise of this right may be restricted by law only in the interests of protecting public order, the health and morality of the population, or protecting the rights and freedoms of other persons.

46. Article 39 guarantees the right to assemble peacefully without arms and to hold meetings, rallies, processions and demonstrations, upon notifying in advance the bodies of executive power or bodies of local self-government.

47. The right to labour, the free choice of type of labour and healthy working conditions are guaranteed by article 43. The State undertakes to create conditions for citizens fully to realize their right to labour.

48. The third paragraph of article 36 guarantees citizens the right to take part in trade unions with the purpose of protecting their labour and socio-economic rights and interests.

49. Everyone's right to housing is guaranteed by article 47. The State creates conditions that enable every citizen to build, purchase as property, or to rent housing.

50. Article 49 states that everyone has the right to health protection, medical care and medical insurance. Health protection is ensured through State funding of the relevant socio-economic, medical and sanitary, health improvement and prophylactic programmes.

51. Under article 48 everyone has the right to a standard of living sufficient for himself or herself and his or her family.

52. Article 55 states that human and citizens' rights and freedoms are protected by the court. Moreover, after exhausting all domestic legal remedies (the human rights court authorized by the Supreme Council), everyone has the right to appeal for the protection of his or her rights and freedoms to the relevant international judicial institutions or to the relevant bodies of international organizations of which Ukraine is a member or participant.

53. Lastly, under article 56 of the Constitution, everyone has the right to compensation, at the expense of the State or bodies of local self-government, for material and moral damages inflicted by unlawful decisions, actions or omission of bodies of State power, bodies of local self-government, their officials and officers during the exercise of their authority.

54. The Act on the Constitutional Court of Ukraine was adopted on 16 November 1996.

55. The post of ombudsman, namely, the authorized human rights representative of the Supreme Council, was created in accordance with the Constitution. An act specifying his functions, rights and obligations is being drafted. A large body of international legislation on this matter is being studied since this notion did not exist in our country before 1996.

56. The drafting of the concept of judicial-legal reform is being completed. Draft legislation on the status of the courts, on the supreme council of justice, on qualifying commissions and on the executive service is also being drawn up.

Article 7

57. In accordance with article 6 of the Act on National Minorities in Ukraine, the State guarantees all national minorities the right to national and cultural autonomy. In promoting the implementation of this right and promoting in every possible way the formation of multinational inter-ethnic associations of citizens, the State provides organizational and financial assistance to 270 associations of national minorities. Cultural centres, higher educational establishments, schools, theatres, museums, libraries for national minorities, cultural circles and courses for learning mother tongues are being created on the initiative of these associations and with State support.

58. In accordance with article 16 of this Act, special allocations are to be made under Ukraine's State budget to develop the culture of national minorities.

59. Article 53 of the Constitution guarantees the right to education. In the Ukraine, complete general secondary education is compulsory. Moreover, all the necessary conditions have been created in Ukraine for the unrestricted use of the languages of national minorities in the national education system.

A system of general education schools in which various languages of instruction are to be used is being created in the light of the educational needs of ethnic groups.

60. Of the 21,349 schools that were operational during the 1995-1996 school year in Ukraine, 2,965 provided instruction in Russian, 98 in Romanian, 61 in Hungarian, 11 in Moldavian, 5 in Hebrew, 3 in Polish and 1 in Crimean-Tatar. In other words, instruction in 15 per cent of all schools was in the language of a national minority. Moreover, in 2,339 schools (11 per cent of the total) one of the languages of instruction was also the language of a national minority

61. About 60 Sunday schools, at which over 73,000 pupils learn their mother tongue, have been created. During the past year, the number of languages studied at general education and Sunday schools and at various courses were supplemented by Armenian, Aisor, Gagauz, Tatar, Turkish, Turkish-Meskhetian and Uzbek. Teachers of national minority languages and literature are being trained at 15 higher educational establishments in Ukraine. Moreover, the State programme for the revival and development of education for national minorities up to the year 2,000 was adopted in 1994 in order to satisfy the educational requirements of national minorities more fully.

62. In addition to general education in Ukraine, article 53 of the Constitution also guarantees the right to free higher education in State and communal educational establishments on a competitive basis.

63. Article 54 of the Constitution guarantees to all citizens the freedom of literary, artistic, scientific and technical creativity. Ukraine's cultural heritage is protected by law. The cultural and information needs of national minorities are satisfied by 48 newspapers published in the languages of these minorities. The annual number of hours of television and radio broadcasting in the languages of national minorities is 1,225 and 1,988 respectively. In 1994 60 titles were published in 19 languages of national minorities; the corresponding figure for 1995 was over 100 titles. The above-mentioned State programme to develop the culture of national minorities up to the year 2000 will meet the cultural needs of national minorities.

64. Steps are being taken to improve existing machinery for preventing the emergence of adverse tendencies in inter-ethnic relations. For example, a special interdepartmental commission, with statutory powers to evaluate publications appearing in Ukraine from a legal and technical standpoint and responsible for monitoring and taking action to prevent the emergence of any adverse social tendencies reflecting racism, chauvanism, religious intolerance, etc. was created in June 1996.

65. There are no restrictions of any kind based on racial, ethnic, national, linguistic or other grounds on access to any position or any type of service available to the public, such as transport, hotels, restaurants, cafes, theatres and parks. Any restrictions in this area are actionable under the law, and specifically under article 66 of the Criminal Code of Ukraine.

66. In complying with its international obligations to protect the rights of national minorities on its territory, Ukraine expresses the hope that the rights of the 12 million ethnic Ukrainians living in other States will be protected in a similar fashion. In order to contribute to the solution of their cultural, spiritual, educational, social and economic problems, the State Committee on Nationalities and Minorities has drawn up a special State programme entitled "The Ukrainian diaspora up to the year 2000". Ukraine considers that multilateral and bilateral agreements between States offer the best possibility of protecting the rights of Ukrainians abroad. In this connection, Ukraine has been consistently guided by the generally recognized norms of international law and specifically the principles of inviolability, territorial integrity and non-interference in the internal affairs of other States.
